

Appl. No. 09/804,673
Response Dated
Reply to Office Action of April 14, 2006

REMARKS

Claims 1-13, 15-28, and 30-33 stand in this application. Claims 1, 12, 15, 20, 22, 27, 30, and 32 are amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested.

CLAIM REJECTIONS – 35 U.S.C. § 103(a)

At page 3 of the Office Action claims 1-4, 6-8, 11, 13-16, 18, 19-24, and 28-33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over United States Patent Number (USPN) 5,940,504 (Griswold) in view of United States Patent Number (USPN) 6,330,670 (England). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

The Office Action has failed to meet its burden of establishing a *prima facie* case of obviousness. According to MPEP § 2143, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

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As recited above, to form a *prima facie* case of obviousness under 35 U.S.C § 103(a) the cited references, when combined, must teach or suggest every element of the claim. See MPEP § 2143.03, for example. Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness because the cited references, taken alone or in combination, fail to teach or suggest every element recited in claims 1-4, 6-8, 11, 13-16, 18, 19, 20-24, and 28-33. Therefore these claims define over Griswold and England whether taken alone or in combination. For example, claim 1 recites the following language, in relevant part:

establishing a secure communication environment between
a monitored program and a managing program using a
security code, wherein said monitored program and said
managing program comprise said security code embedded
therein...

sending said time interval encrypted with said security code
to said monitored program....

As correctly noted in the Office Action, Griswold does not disclose the method that the user receives the program, time interval, or license. Applicants further submit that Griswold also does not disclose the above-recited language. Griswold fails to disclose, teach, or suggest "establishing a secure communication environment between a monitored program and a managing program using a security code, wherein said monitored program and said managing program comprise said security code embedded therein." Furthermore, Griswold fails to disclose, teach, or suggest "sending said time interval encrypted with said security code to said monitored program," as recited in amended claim 1.

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Applicants also respectfully submit that England fails to disclose, teach, or suggest the above-recited language. For example, England fails to disclose, teach, or suggest "establishing a secure communication environment between a monitored program and a managing program using a security code, wherein said monitored program and said managing program comprise said security code embedded therein." Furthermore, Griswold fails to disclose, teach, or suggest "sending said time interval encrypted with said security code to said monitored program," as recited in amended claim 1.

Therefore, Griswold and England, whether taken alone or in combination, fail to disclose, teach or suggest every element recited in claim 1, as amended. Claims 15, 20, 22, 30, and 32 are amended in a similar manner and for analogous reasons, these claims also are patentable over Griswold and England, whether taken alone or in combination.

If an independent claim is non-obvious under 35 U.S.C. § 103, then any claim depending therefrom is non-obvious. See MPEP § 2143.03, for example. Accordingly, removal of the obviousness rejection with respect to any claims depending from claims 1, 15, 20, 22, 30, and 32 is respectfully requested.

At page 5 of the Office Action claims 5 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of England and further in view of USPN 5,291,596 (Mita). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Claims 5 and 17 are patentable and non-obvious over Griswold in view of England and Mita, whether taken alone or in combination, because the cited references fail to disclose, teach, or suggest all the language recited in claims 5 and 17.

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Furthermore, claims 5 and 17 depend from claims 1 and 15, respectively. Griswold and England fail to disclose, teach, or suggest the missing language of amended claims 1 and 15 as previously discussed. Mita also fails to disclose, teach, or suggest the missing language of claims 1 and 15, as amended. Therefore claims 5 and 17 represent patentable subject matter over the cited references for at least the same reasons given for claims 1 and 15. Moreover, claims 5 and 17 are dependent claims and therefore contain additional features that further distinguish these claims from the cited references. Accordingly, Applicants respectfully request removal of the obviousness rejection with respect to these claims.

At page 5 of the Office Action claims 9, 10, 25, and 26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of England and USPAN 2001/0052013 (Munguia). Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Claims 9, 10, 25, and 26 are patentable and non-obvious over Griswold in view of England and Munguia, whether taken alone or in combination, since the cited references fail to disclose, teach, or suggest all the language recited in claims 9, 10, 25, and 26. Claims 9, 10, 25, and 26 depend from claims 1 or 22. Griswold and England fail to disclose, teach, or suggest the missing language of amended claims 1 and 22 as previously discussed. Munguia also fails to disclose, teach, or suggest the missing language of claims 1 and 22, as amended. Therefore claims 9, 10, 25, and 26 represent patentable subject matter over the cited references for at least the same reasons given for claims 1 and 22. Furthermore, claims 9, 10, 25 and 26 are dependent claims and therefore contain additional features that further distinguish these claims from the cited

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references. Accordingly, Applicants respectfully request removal of the obviousness rejection with respect to these claims.

At page 6 of the Office Action claims 12 and 27 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Griswold in view of JP 10320070A. Applicants respectfully traverse the rejection, and requests reconsideration and withdrawal of the obviousness rejection.

Applicants amended claims 12 and 27 to include "said monitored program and said managing program comprising a security code embedded therein," which is not disclosed, taught, or suggested by neither Griswold nor JP 10320070A. Accordingly, Applicants respectfully submit that claims 12 and 27, as amended, are patentable and non-obvious in of Griswold and JP 10320070A, whether taken alone or in combination. Therefore, Applicants respectfully request the withdrawal of the obviousness rejection with respect thereto.

For at least the above reasons, Applicants submit that claims 1-13, 15-28, and 30-33 recite novel features not shown by the cited references. Further, Applicants submit that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicants submit that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicants do not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicants hereby reserve the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims

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that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1-13, 15-28, and 30-33 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

The Examiner is invited to contact the undersigned at 724-933-5529 to discuss any matter concerning this application.

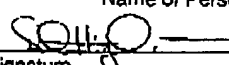
Respectfully submitted,

KACVINSKY LLC


Roberto Capriotti, Reg. No. 46,599
Under 37 CFR 1.34(a)

Dated: June 14, 2006

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below:	
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